

shall not be deemed to be the permission needed pursuant to section 38.

§ 303.207 Restricted activities for critically undercapitalized institutions.

(a) *Scope.* Any critically undercapitalized insured depository institution shall submit an application to engage in certain restricted activities.

(b) *Content of filing.* Applications to engage in any of the following activities, as set forth in sections 38(i)(2) (A) through (G) of the FDI Act, shall describe the proposed activity and explain how the activity would further the purposes of section 38 of the FDI Act (12 U.S.C. 1831o):

(1) Enter into any material transaction other than in the usual course of business including any action with respect to which the institution is required to provide notice to the appropriate federal banking agency. Materiality will be determined on a case-by-case basis;

(2) Extend credit for any highly leveraged transaction (as defined in part 325 of this chapter);

(3) Amend the institution's charter or bylaws, except to the extent necessary to carry out any other requirement of any law, regulation, or order;

(4) Make any material change in accounting methods;

(5) Engage in any covered transaction (as defined in section 23A(b) of the Federal Reserve Act (12 U.S.C. 371c(b)));

(6) Pay excessive compensation or bonuses. Part 364 of this chapter provides guidance for determining excessive compensation; or

(7) Pay interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds to a level significantly exceeding the prevailing rates of interest on insured deposits in the institution's normal market area. Section 337.6 of this chapter (Brokered deposits) provides guidance for defining the relevant terms of this provision; however this provision does not supersede the general prohibitions contained in § 337.6 of this chapter.

§ 303.208 Delegation of authority.

Authority is delegated to the Director and Deputy Director (DOS) and,

where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve or deny the following applications, requests or petitions submitted pursuant to this subpart:

(a) Applications filed pursuant to section 38 of the FDI Act (12 U.S.C. 1831o) (prompt corrective action), including applications to make a capital distribution;

(b) Applications for acquisitions, branching, and new lines of business (except that the delegation is limited to the authority as delegated to approve or deny any concurrent application filed pursuant to section 18 (c) or (d) of the FDI Act (12 U.S.C. 1828 (c) or (d)));

(c) Applications to pay a bonus or increase compensation;

(d) Applications for an exception to pay principal or interest on subordinated debt; and

(e) Applications by critically undercapitalized insured depository institutions to engage in any restricted activity listed in this subpart.

Subpart L—Section 19 of the FDI Act (Consent to Service of Persons Convicted of Certain Criminal Offenses)

§ 303.220 Scope.

This subpart covers applications under section 19 of the FDI Act (12 U.S.C. 1829). Pursuant to section 19, any person who has been convicted of any criminal offense involving dishonesty, breach of trust, or money laundering, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not become, or continue as, an institution-affiliated party of an insured depository institution; own or control, directly or indirectly, any insured depository institution; or otherwise participate, directly or indirectly, in the conduct of the affairs of any insured depository institution without the prior written consent of the FDIC.